IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO.2160 OF 2006

Genappa Subhana Gavade
(since deceased through L.R) & ors. ...Appellants

vs.

Gulabdas Vitthaldas Giri & ors. ...Respondents

Mr.S.S.Patwardhan for the Appellants
Mr.G.N.Salunke for Respondent No.1
Mr.S.M.Kamble for Respondent No.2.

CORAM: A.S.OKA,J.
DATE : JANUARY 9,2007.

P.C.:

1. Heard Shri Patwardhan for the Appellant. In this Appeal the challenge is to the order passed by the learned Additional District Judge, Gadhinglaj on an Application under section 72(4) of the Bombay Public Trusts Act, 1950. Though this Appeal is numbered as First Appeal, it will be governed by the constraints of a Second Appeal under section 100 of the Code of Civil Procedure, 1908.

2. The learned Deputy Charity Commissioner, Kolhapur passed an order holding that Shri Ramling Deo Bhairao Deo (Bhagirthi) (a temple) Mouje Tudiye, Taluka Chandgad District Kolhapur falls under the definition of ‘temple’ as defined under section 2(17) of the said Act of 1950 and was therefore a public trust within the meaning of the said Act of 1950. An Appeal was preferred before the learned Joint Charity

Commissioner, Gadhinglaj. The said Appeal was dismissed. The said order has been confirmed by the learned Additional District Judge, Gadhinglaj.

3. After considering the evidence on record, a finding of fact has been recorded by the three Authorities regarding existence of a pubic trust. There is a finding of fact that devotees not only from the village but from entire region were coming to the temple to offer worship. The finding of the Courts is that the temple is not the private property. No substantial question of law arises. Appeal is dismissed.

JUDGE